

STUDENT DEBT REDUCTION ACT OF 1996

SEPTEMBER 5, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOODLING, from the Committee on Economic and Educational Opportunities, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 3863]

[Including cost estimate of the Congressional Budget Office]

The Committee on Economic and Educational Opportunities, to whom was referred the bill (H.R. 3863) to amend the Higher Education Act of 1965 to permit lenders under the unsubsidized Federal Family Education Loan program to pay origination fees on behalf of borrowers, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 2, line 11, insert after “fee” the following: “, provided that the lender assesses the same fee to all student borrowers”.

Page 2, line 15, strike “Section 428H” and insert “Section 428H(f)”.

Page 2, line 19, strike “and” at the end.

Page 2, line 23, strike the period and insert “; and”.

Page 2, after line 23, insert the following new paragraph:

(3) by adding at the end the following new paragraph:

“(6) EXCEPTION.—Notwithstanding paragraph (1), a lender may assess a lesser origination fee for a borrower demonstrating greater financial need as deter-

mined by such borrower's adjusted gross family income."

Page 2, after line 23, insert the following new subsection:

(c) **REPORT ON COMPETITIVE ALLOCATION.**—Within 60 days after the date of enactment of this Act, the Secretary of Education shall submit to each House of the Congress a legislative proposal that would permit the Secretary to allocate the right to make subsidized and unsubsidized student loans on the basis of competitive bidding. Such proposal shall include provision to ensure that any payments received from such competitive bidding are equally allocated to deficit reduction and to pro rata reduction of origination fees in both guaranteed and direct student loans.

Page 2, after line 23, insert the following new section:

SEC. 3. STUDY OF LOAN FEES.

(a) **STUDY REQUIRED.**—The Secretary of Education shall conduct a statistical analysis of the subsidized and unsubsidized student loan programs under part B of title IV of the Higher Education Act of 1965 to gather data on lenders' use of loan fees and to determine if there are any anomalies that would indicate any institutional, programmatic or socioeconomic discrimination in the assessing or waiving such fees.

(b) **REPORT.**—The Secretary of Education shall submit to each House of the Congress a report on the study required by subsection (a) within 2 years after the date of enactment of this Act.

(c) **STATISTICAL CHARACTERISTICS TO BE STUDIED.**—In conducting the study required by subsection (a), the Secretary of Education shall compare recipients of loans on the basis of income, residence location, type and location of higher education, program of instruction and type of lender.

PURPOSE

The purpose of H.R. 3863 is to amend the Higher Education Act of 1965 by permitting persons other than the student borrower to pay the student loan origination fees on behalf of the student borrower under the Federal Family Education Loan Program

LEGISLATIVE ACTION

H.R. 3863 was introduced on July 22, 1996 by Mr. Goodling. On August 1, 1996, the Committee on Economic and Educational Opportunities assembled to consider H.R. 3863. Amendments to the bill were adopted, and the Committee adopted the bill as amended. H.R. 3863, as amended, was favorably reported by the Committee on Economic and Educational Opportunities on August 1, 1996, by a recorded vote of 34–0.

BACKGROUND AND NEED FOR LEGISLATION/COMMITTEE VIEWS

H.R. 3863 allows persons other than the student borrower and lenders participating in the Federal Family Education Loan Program to pay origination fees on behalf of students who borrow unsubsidized Stafford student loans. This type of financial relief is already permitted in the subsidized Stafford Loan Program under which the majority of students in the country borrow student loan funds. This bill is a simple technical fix which may help lower costs for some students.

On July 23, 1992, the 1992 Amendments to the Higher Education Act were signed into law. The Amendments created a new Unsubsidized Stafford Loan Program designed to expand access to student loans to middle class families. Prior to the 1992 Amendments, access to Stafford Loans was based on financial need. With the creation of the Unsubsidized Stafford Loan Program, eligible students were able to receive loans without regard to their financial need. The new Unsubsidized Stafford Loan Program closely mirrored the existing Stafford Loan Program, except that the Federal Government would not be paying interest benefits on these new loans.

In a May 1996 letter to Congress, Secretary Riley advised that the Department of Education had interpreted the origination fee provisions found in section 428H dealing with unsubsidized Stafford loans and section 438 dealing with subsidized Stafford loans differently. Indeed, the provisions are worded differently. However, in both cases, the origination fee is equal to 3% of the loan amount. In both cases, the total 3% must be remitted to the Federal Government by the lender. It is the Department's interpretation of the words "shall charge the borrower" that has brought about the need for this legislation. These words have been interpreted by the Department to mean that in the case of unsubsidized loans, only the borrower may pay the fee even if someone else wishes to pay the fee on his or her behalf.

The Committee does not believe Congress ever intended such a distinction between these two programs. There was no reason to treat these students differently when it came to the payment of origination fees and there still isn't. Origination fees were adopted to help offset program costs. Who pays them does not make any difference to the Federal Government, as long as the fees continue to be paid.

The savings to an individual student may be the full origination fee which is 3% of the loan amount. In that case, a first year independent undergraduate student only eligible for an unsubsidized loan of \$6,625 receives an up front fee reduction of \$198.75. If this student borrows the maximum allowed for unsubsidized loans over four years under current borrowing limits and receives a 3% reduction in up front fees, he or she will have an extra \$1,053.75 to use in meeting his or her educational expenses.

A concern about the potential for discrimination among students and schools was raised during the Committee's consideration of the bill. The Committee notes that lenders have been permitted to pay fees on behalf of students who borrow subsidized loans and reduce interest rates for subsidized and unsubsidized loan borrowers since

1980 with no reports of discrimination coming to this Committee. In fact, during the discussion of this issue, no examples of discriminatory behavior on the part of lenders were reported. However, in order to address this concern, the Committee agreed to explicitly prohibit discrimination. The Committee adopted an amendment which requires a lender to offer the same reduction in unsubsidized student loan origination fees to all borrowers, except that, lenders may offer greater reductions to those students having the greatest financial need.

As part of the discussion with respect to the potential for discrimination, the Committee also adopted an amendment which requires the Secretary of Education to study the use of fee waivers or discounts. The study is to compare recipients of fee waivers on the basis of income, residence location, type and location of institution of higher education, program of instruction and type of lender.

The Committee also adopted an amendment which requires the Secretary of Education to submit a legislative proposal permitting the Secretary to allocate the right to make loans on the basis of competitive bidding. The proposal is to include a provision which ensures that payments received as a result of the competitive bidding are equally allocated to deficit reduction and to pro rata reduction of origination fees for all students.

SUMMARY

H.R. 3863, a bill amending the Higher Education Act of 1965, allows lenders in the student loan program to pay origination fees charged to students who obtain unsubsidized Stafford loans. Currently, lenders are allowed to pay the origination fees charged a student at the time a student obtains a subsidized student loan (one where the Federal Government pays the interest on the student's behalf while in school). However, lenders are prohibited from paying such fees on behalf of a student who obtains an unsubsidized student loan (one where the student is responsible for all of the interest). The bill conforms the subsidized and unsubsidized loan programs; has no cost to the Federal Government; and increases competition in the student loan program which may lower costs for students.

SECTION-BY-SECTION

Section 1 contains the short title, the "Student Debt Reduction Act of 1996."

Section 2(a) amends paragraph (1) of section 428H(f) of the Higher Education Act of 1965 to require that an origination fee of 3% of the principal amount of each loan be paid to the Secretary. Lenders are authorized to charge the borrower for such fee, provided that the same fee is assessed to all borrowers.

Section 2(b) makes conforming amendments and adds a new paragraph (6) to 428(H)(f) which allows lenders to assess a lesser origination fee to borrowers with greater financial need based on adjusted gross family income.

Section 2(c) requires the Secretary of Education to submit a proposal to Congress that would permit the Secretary to allocate the right to make student loans based on a competitive bid.

Section 3 requires the Secretary of Education to conduct a study of the Part B loan programs in order to determine if lenders discriminate in waiving fees based on institutional, programmatic or socioeconomic grounds.

EXPLANATION OF AMENDMENTS

The amendments adopted in Committee are explained in this report.

OVERSIGHT FINDINGS OF THE COMMITTEE

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

In compliance with clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment into law of H.R. 3863 will have no significant inflationary impact on prices and costs in the operation of the national economy. It is the judgment of the Committee that the inflationary impact of this legislation as a component of the federal budget is negligible.

GOVERNMENT REFORM AND OVERSIGHT

With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 3863.

COMMITTEE ESTIMATE

Clause 7 of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 3863. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

APPLICATION OF LAW TO LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch. This bill amends the Higher Education Act of 1965 by permitting persons other than the student borrower to pay the student loan origination fees on behalf of the student borrower under the Federal Family Education Loan Program. The bill does not prohibit legislative branch employees from otherwise being eligible for such benefits.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget & Impoundment Control Act requires a statement of whether the provisions of the reported bill include unfunded mandates; the bill permits persons other than the student borrower to pay the student loan origination fees on behalf of the student borrower under the Federal Family Education Loan Program and as such does not contain any unfunded mandates. The Committee also received a letter regarding unfunded mandates from the Director of the Congressional Budget Office. See *infra*.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST
ESTIMATE

With respect to the requirement of clause 2(1)(3)(B) of rule XI of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 2(1)(3)(C) of rule XI of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3863 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 23, 1996.

Hon. WILLIAM F. GOODLING,
*Chairman, Committee on Economic and Educational Opportunities,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has reviewed H.R. 3863, the Student Debt Reduction Act of 1996. The bill was ordered reported by the Committee on Economic and Educational Opportunities on August 1, 1996. This bill would allow private lenders participating in the unsubsidized guaranteed student loan program the option of paying the government the 3 percent borrower origination fee on behalf of the student. H.R. 3863 also would direct the Secretary of Education to conduct a study on the use of this authority by the private lenders. In addition, the bill would direct the Secretary of Education to submit to the Congress a legislative proposal to permit the federal government to make subsidized and unsubsidized student loans based on competitive bidding.

Giving private lenders the authority to assume the cost of the borrower origination fees would have no effect on the overall federal budget. The fee would still be collected by the federal government. This authority already exists for lenders participating in the much larger subsidized guaranteed student loan program. The cost of the studies to be conducted by the Department of Education would be negligible. Enactment of H.R. 3863 would not affect direct spending or receipts, and thus, pay-as-you-go procedures would not apply.

H.R. 3863 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) and would not affect the budgets of state, local, or tribal governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Kalcevic.

Sincerely,

JUNE E. O'NEILL, *Director*.

ROLLCALL VOTES

The Committee defeated an amendment (15 ayes to 18 noes) offered by Mr. Andrews to eliminate the insurance premium provided for in the Federal Family Education Loan Program; reduce the fees charged to borrowers of direct loans from 4% to 3%; increase the lender paid origination fee in the Federal Family Education Loan Program from .5% to 1.5% of the loan amount; and return reserve funds from guaranty agencies in the Federal Family Education Loan Program in the amount of \$39 million each year for Fiscal Years 1997 through 2002.

The Committee favorably reported the bill by a vote of 34 to 0.

COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

ROLL CALL #1 BILL H.R. 3863 DATE August 1, 1996

AMENDMENT NUMBER 3 DEFEATED 15 - 18

SPONSOR/AMENDMENT Mr. Andrews / Amendment in the Nature of a Substitute to eliminate the 1% insurance fee in both the Guaranteed and the Student Loan Program.

MEMBER	AYE	NO	PRESENT	NOT VOTING
CHAIRMAN GOODLING		X		
Mr. PETRI	X			
Mrs. ROUKEMA		X		
Mr. GUNDERSON				X
Mr. FAWELL		X		
Mr. BALLENGER		X		
Mr. BARRETT		X		
Mr. CUNNINGHAM		X		
Mr. HOEKSTRA		X		
Mr. McKEON		X		
Mr. CASTLE		X		
Mrs. MEYERS		X		
Mr. JOHNSON				X
Mr. TALENT		X		
Mr. GREENWOOD		X		
Mr. HUTCHINSON		X		
Mr. KNOLLENBERG		X		
Mr. RIGGS				X
Mr. GRAHAM		X		
Mr. WELDON		X		
Mr. FUNDERBURK		X		
Mr. SOUDER		X		
Mr. McINTOSH				X
Mr. NORWOOD				X
Mr. CLAY	X			
Mr. MILLER				X
Mr. KILDEE	X			
Mr. WILLIAMS	X			
Mr. MARTINEZ	X			
Mr. OWENS	X			
Mr. SAWYER	X			
Mr. PAYNE				X
Mrs. MINK	X			
Mr. ANDREWS	X			
Mr. REED	X			
Mr. ROEMER	X			
Mr. BECERRA				X
Mr. SCOTT	X			
Mr. GREEN	X			
Ms. WOOLSEY	X			
Mr. ROMERO-BARCELO				X
Mr. FATTAH	X			
Mr. BLUMENAUER				X
TOTALS	15	18		10

COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

ROLL CALL #2

BILL H.R. 3863

DATE August 1, 1996

PASSED 34 - 0

SPONSOR/AMENDMENT Mr. Petri / Motion to report the bill to the House of Representatives with amendments and with the recommendation that the bill as amended do pass.

MEMBER	AYE	NO	PRESENT	NOT VOTING
CHAIRMAN GOODLING	X			
Mr. PETRI	X			
Mrs. ROUKEMA	X			
Mr. GUNDERSON				X
Mr. FAWELL	X			
Mr. BALLENGER	X			
Mr. BARRETT	X			
Mr. CUNNINGHAM	X			
Mr. HOEKSTRA	X			
Mr. McKEON	X			
Mr. CASTLE	X			
Mrs. MEYERS	X			
Mr. JOHNSON				X
Mr. TALENT	X			
Mr. GREENWOOD	X			
Mr. HUTCHINSON	X			
Mr. KNOLLENBERG	X			
Mr. RIGGS				X
Mr. GRAHAM	X			
Mr. WELDON	X			
Mr. FUNDERBURK	X			
Mr. SOUDER	X			
Mr. McINTOSH				X
Mr. NORWOOD				X
Mr. CLAY	X			
Mr. MILLER				X
Mr. KILDEE	X			
Mr. WILLIAMS	X			
Mr. MARTINEZ	X			
Mr. OWENS	X			
Mr. SAWYER	X			
Mr. PAYNE	X			
Mrs. MINK	X			
Mr. ANDREWS	X			
Mr. REED	X			
Mr. ROEMER	X			
Mr. BECERRA				X
Mr. SCOTT	X			
Mr. GREEN	X			
Ms. WOOLSEY	X			
Mr. ROMERO-BARCELO				X
Mr. FATTAH	X			
Mr. BLUMENAUER				X
TOTALS	34	0		9

CORRESPONDENCE

HOUSE OF REPRESENTATIVES,
Washington, DC, September 4, 1996.

Chairman WILLIAM GOODLING,
House Committee on Economic and Educational Opportunities,
2175 Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN GOODLING: Due to legislative duties, I was unable to vote on amendments to H.R. 3863. Had I been present, I would have voted no to the amendment offered by Mr. Andrews regarding the elimination of the 1 percent insurance fee, and I would have voted yes on the motion to report the bill favorably to the House of Representatives.

I appreciate your time and attention to this matter.

Sincerely,

DAVID MCINTOSH, *Member of Congress.*

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 428H OF THE HIGHER EDUCATION ACT OF 1965**SEC. 428H. UNSUBSIDIZED STAFFORD LOANS FOR MIDDLE-INCOME BORROWERS.**

(a) * * *

* * * * *

(f) ORIGINATION FEE.—

[(1) AMOUNT OF ORIGINATION FEE.—The lender shall charge the borrower an origination fee in the amount of 3.0 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower.]

(1) AMOUNT OF ORIGINATION FEE.—Except as provided in paragraph (5), an origination fee shall be paid to the Secretary with respect to each loan under this section in the amount of 3.0 percent of the principal amount of the loan. Each lender under this section is authorized to charge the borrower for such origination fee, provided that the lender assesses the same fee to all student borrowers. Any such fee charged to the borrower shall be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower.

* * * * *

(3) DISCLOSURE REQUIRED.—The lender shall disclose to the borrower the amount and method of calculating [the origination fee] *any origination fee that is charged to the borrower.*

(4) USE OF ORIGINATION FEE TO OFFSET DEFAULT COSTS.—Each lender making loans under this section shall transmit all [origination fees authorized to be collected from borrowers]

origination fees required under paragraph (1) to the Secretary, who shall use such fees to pay the Federal costs of default claims paid for loans under this section and to reduce the cost of special allowances paid thereon, if any, under section 438(b).

* * * * *

(6) EXCEPTION.—Notwithstanding paragraph (1), a lender may assess a lesser origination fee for a borrower demonstrating greater financial need as determined by such borrower's adjusted gross family income.

* * * * *

ADDITIONAL VIEWS OF REPRESENTATIVE ROBERT E.
ANDREWS

I share the laudable goal of H.R. 3863, to reduce the costs to students of borrowing for educational expenses, and I applaud the Committee for its efforts to achieve this goal by cutting student loan fees. I would note that student loan origination fees were initially intended as a temporary measure, and it is high time that we repeal this tax on borrowing for all students. However, this legislation remains flawed, because it will create an unpredictable and unequal student loan system, in which some students will see their loan fees cut, while other students will receive no benefit.

As originally written, H.R. 3863 would have given lenders the discretion to pay loan origination fees for some borrowers but not others. In all likelihood, the lenders would waive the fee for the most affluent students, who are better lending risks, in order to attract their business. Thus, the most needy students would have been required to pay more to participate in the same lending programs as affluent students. The bill also would have created incentives for lenders to pay the fee for students who are perceived as better lending risks. As a result, certain institutions would have a competitive advantage over others. This would have forced smaller lenders out of business, and might have led to less access to loans for needy students.

To address these concerns about potential discrimination among students and schools, I offered an amendment, which I am pleased that the Committee adopted, to prevent this possible unintended consequence of H.R. 3863. My amendment makes clear that lenders cannot vary the fee that they charge to student borrowers based on their credit risk. Additionally, my amendment gives the lender some discretion to further cut the origination fee for some student borrowers if they, in fact, show a greater need. Lenders, thus, are prohibited from discriminating against lower-income students and are empowered to offer them further assistance at their discretion.

Unfortunately, the bill as currently written would permit lenders to pay origination fees for some students, but would not provide the same opportunity for cost savings to students who receive loans under the Direct Loan program. The result will be discrimination among students based on the program from which they receive their student loans.

Students, colleges and universities, and the taxpayers are best served if there is free, open competition and choice. Competition means that students and families can evaluate all the different loan options available to them and make the choice that is best for them. To ensure free competition in the student loan arena, the basic ground rules should be equal for all kinds of loans.

Loan fee cuts must be applied equitably to benefit all students, whether their institution participates in the Federal Family Edu-

cation Program (FFEL), the Direct Loan Program, or both. It is important to keep terms and conditions as nearly the same as possible, both to provide a level playing field so that students and institutions continue to benefit from the healthy competition that currently exists between the two programs, and to ensure that students in equivalent financial situations are treated equally. Not only should we reduce the fees on the bank- and guaranty agency-based unsubsidized loans, we should also extend that fee reduction to students who receive Direct Loans.

If it is a good idea to reduce these fees for students who borrow from banks or from guaranty agencies, then it is an equally good idea to extend that same opportunity to all students who would borrow from the Direct Student Loan Program. This Committee has the opportunity to provide relief to all students, regardless of where they get their loan, while achieving our goal of a balanced federal budget.

Cutting fees will help students who are faced with rising college costs and declining federal aid. Over the past 15 years (1980–95) tuition at private four-year higher education institutions has increased 89% and at public four-year institutions by 98%. In the same period of time, median family income has increased by 5% and student financial aid per student has increased by 37%. Clearly the ability of students and their families to pay for higher education has diminished significantly. Student financial aid has clearly not kept pace with rising costs. In the mid-1970's about 76% of the financial aid which students received from Federal programs was grants and 21% was loans. In the mid-1990's the proportions have been reversed, with 26% of the Federal student aid in grants and 72% in loans.

Another problem with H.R. 3863 is that guaranty agencies could take the so-called excess reserves accumulated from students who have already borrowed money, draw down those excess reserves in order to help finance this cut in the fees, and, in effect, use the money paid by a student five years ago under a fee to help reduce the fee for a student who borrows next year. Banks would not have that same opportunity to get capital at basically no cost, nor would the federal government. In order to level that playing field, we should cut loan fees for all students, whether they borrow from a guaranty agency, a bank, or the federal government through Direct Lending.

To pay for fee reductions for all students, regardless of where they get their loan, we should apply savings already identified in the budget process but not yet used: recovery of these excess guaranty agency reserve funds and an increase in the lender loan fee. We have already concluded in our budget process that lenders and guaranty agencies are in a better position to bear these costs than students are.

In summary, under H.R. 3863 students who take out an unsubsidized loan from a guaranty agency or a bank get a fee cut, which will lower their cost of borrowing for school. Yet their next-door neighbors on campus, with the same family income and the same tuition, who happen to receive their loan through the Direct

Loan program, are not offered the same savings. This inequity makes no sense, and it is a serious flaw in the legislation.

ROBERT E. ANDREWS.

